

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to adoption of federal regulations and providing an opportunity for public comment

The Department of Transportation hereby proposes to amend Chapter 520, “Regulations Applicable to Carriers,” Chapter 529, “For-Hire Interstate Motor Carrier Authority,” and Chapter 607, “Commercial Driver Licensing,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12, 321.188, 321.449 and 321.450.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 307.27, 321.188, 321.449 and 321.450.

Purpose and Summary

This proposed rule making aligns Chapters 520, 529 and 607 with federal regulation changes occurring during the 2020 federal fiscal year. The proposed amendments also amend Chapter 607 to align with federal regulation changes implementing electronic submission of the federal medical certificate form that certain commercial driver’s license (CDL) holders are required to submit as a condition of obtaining or retaining a CDL.

Federal medical certificate changes. The proposed amendments to Chapter 607 will bring the rules in line with federal regulations governing the medical certificate form that certain CDL holders are required to submit as a condition of being licensed. Those regulation changes can be found in the Federal Register (FR) Volume 83, No. 120, Pages 28774-28783, June 21, 2018. Currently, a CDL holder must submit a physical copy of the medical certificate form to the Department; however, the Federal Motor Carrier Safety Administration (FMCSA) has adopted regulations and is currently programming a system by which the CDL holder’s medical provider will submit the medical certificate to FMCSA, which will then transit the medical certificate electronically to the state driver’s license agency. The proposed amendments provide flexibility for the form to continue to be submitted as a physical copy until the programming is ready and FMCSA begins transmitting the form to the Department electronically.

Annual update. The remainder of the proposed amendments are part of the regular, annual update for the Department to adopt the most recent updates to the federal regulations. Iowa Code section 321.188 requires the Department to adopt rules to administer CDLs in compliance with certain portions of 49 Code of Federal Regulations (CFR) Part 383. Iowa Code section 321.449 requires the Department to adopt rules consistent with the Federal Motor Carrier Safety Regulations (FMCSR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 385 and 390 to 399. Iowa Code section 321.450 requires the Department to adopt rules consistent with the Federal Hazardous Materials Regulations (HMR) promulgated under United States Code, Title 49, and found in 49 CFR Parts 107, 171 to 173, 177, 178 and 180.

Commercial vehicles transporting goods in interstate commerce are subject to the FMCSR on the effective dates specified in the FR. Commercial vehicles transporting hazardous materials in interstate commerce or transporting certain hazardous materials intrastate are subject to the HMR on the effective dates specified in the FR. The adoption of the federal regulations by the Department will extend the enforcement of the regulations to commercial vehicles operated intrastate unless exempted by statute.

The proposed amendments to Chapter 520 adopt the current CFR dated October 1, 2020, for 49 CFR Parts 107, 171 to 173, 177, 178, 180, 385 and 390 to 399. The proposed amendment to Chapter 529 adopts the current CFR dated October 1, 2020, for 49 CFR Parts 365 to 368 and 370 to 379. The proposed amendments to Chapter 607 adopt the current CFR dated October 1, 2020, for certain portions of 49 CFR Part 383.

Proposed federal regulations are published in the FR to allow a period for public comment, and after adoption, the final regulations are published in the FR. To ensure the consistency required by statute, the Department adopts the specified parts of 49 CFR as adopted by the United States Department of Transportation.

The following paragraphs provide a specific description of the amendments to the FMCSR and the HMR that have become final and effective since the 2020 edition of the CFR that affect Chapters 520, 529 and 607:

Amendments to the FMCSR and Federal HMR

Part 383 (FR Vol. 84, No. 190, Pages 52029-52035, 10-1-19)

This final rule adopts the FMCSR prohibiting states from issuing, renewing, transferring, or upgrading a CDL with a hazardous materials endorsement unless the Transportation Security Administration in the Department of Homeland Security has first conducted a security threat assessment and determined that the applicant does not pose a security risk warranting denial of the hazardous materials endorsement. Effective date: October 31, 2019.

Part 383 (FR Vol. 84, No. 240, Pages 68052-68057, 12-13-19)

This final rule extends the compliance date for the requirement that states request information from the Commercial Driver's License Drug and Alcohol Clearinghouse (Clearinghouse) about individuals before completing certain CDL transactions for those drivers. The states' compliance with this requirement is delayed until January 6, 2023. The compliance date extension allows FMCSA the time needed to complete its work on a forthcoming rule making to address the states' use of driver-specific information from the Clearinghouse, and time to develop the information technology platform through which states will electronically request and receive Clearinghouse information. Effective date: December 13, 2019.

Part 383 (FR Vol. 85, No. 23, Pages 6088-6101, 2-4-20)

This interim final rule extends the compliance date for the minimum requirements for entry-level commercial motor vehicle operators to February 7, 2022, to provide FMCSA with additional time to complete development of the Training Provider Registry (TPR) and to allow states additional time to modify their information technology systems and procedures, as necessary, to accommodate receipt of driver-specific data from the TPR. Effective date: February 4, 2020.

Part 385 (FR Vol. 85, No. 36, Pages 10307-10310, 2-24-20)

This final rule amends the HMR to incorporate by reference the April 1, 2019, edition of the Commercial Vehicle Safety Alliance's "North American Standard Out-of-Service Criteria and Level VI Inspection Procedures and Out-of-Service Criteria for Commercial Highway Vehicles Transporting Transuranics and Highway Route Controlled Quantities of Radioactive Materials as defined in 49 CFR Part 173.403." The out-of-service criteria provide uniform enforcement tolerances for roadside inspections to enforcement personnel nationwide, including FMCSA's state partners. Effective date: March 25, 2020.

Parts 171-173, 178 and 180 (FR Vol. 85, No. 91, Pages 27810-27901, 5-11-20)

This final rule amends the HMR to align with international regulations and standards by incorporating various amendments, including changes to proper shipping names, hazard classes, packing groups, special provisions, packaging authorizations, air transport quantity limitations, and vessel stowage requirements. These revisions are necessary to harmonize the HMR with recent changes made to the International Maritime Dangerous Goods Code, the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air, and the United Nations Recommendations on the Transport of Dangerous Goods—Model Regulations. Additionally, the final rule adopts several amendments to the HMR that allow for increased alignment with the Transport Canada Transportation of Dangerous Goods Regulations. Effective date: May 11, 2020, except for the amendment to 49 CFR Section 173.21(f), which is effective January 2, 2023.

Parts 385 and 395 (FR Vol. 85, No. 105, Pages 33396-33452, 6-1-20)

This final rule revises FMCSA regulations relating to the hours of service regulations to provide greater flexibility for drivers subject to those rules without adversely affecting safety. The rule expands the short haul exception to 150 air-miles and allows a 14-hour work shift to take place as part of the exception; expands the driving window during adverse driving conditions by up to an additional 2 hours; requires a 30-minute break after 8 hours of driving time (instead of on-duty time) and allows an on-duty/not driving period to qualify as the required break; and modifies the sleeper berth exception to allow a driver to meet the 10-hour minimum off-duty requirement by spending at least 7, rather than at least 8, hours of that period in the berth and a minimum off-duty period of at least 2 hours spent inside or outside of the berth, provided the 2 periods total at least 10 hours, and that neither qualifying period counts against the 14-hour driving window. Effective date: September 29, 2020.

Part 396 (FR Vol. 85, No. 160, Pages 50787-50793, 8-18-20)

This final rule rescinds an FMCSA regulation related to the requirement that drivers of passenger-carrying commercial motor vehicles operating in interstate commerce submit, and motor carriers retain, driver-vehicle inspection reports (DVIRs) when the driver has neither found nor been made aware of any vehicle defects or deficiencies (no defect DVIRs). This final rule removes an information collection burden without adversely impacting safety. Effective date: September 17, 2020.

Fiscal Impact

The fiscal impact cannot be determined. The federal regulations proposed to be adopted by this rule making were subject to fiscal impact review by either the FMCSA or the Pipeline and Hazardous Materials Safety Administration when the regulations were enacted and were determined not to be cost-prohibitive.

Jobs Impact

The proposed amendments may have a slight impact on CDL holders and motor carrier operations; however, the amendments should not negatively impact jobs or employment opportunities because the regulations proposed to be adopted align the rules to federal regulations and streamline the federal medical certificate submission process as well as bring uniformity and consistency to the industry, which should have a positive impact on employment.

Waivers

Various portions of the federal regulations and Iowa statutes allow some exceptions when the exceptions will not adversely impact the safe transportation of commodities on the nation's highways. Granting additional exceptions for drivers and the motor carrier industry in Iowa would adversely impact the safety of the traveling public in Iowa.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on March 2, 2021. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy Bureau
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear oral presentations will be held on March 4, 2021, via conference call from 9 to 10 a.m. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on March 2, 2021, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, the Department's rules administrator, and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **520.1(1)“a”** as follows:

a. Motor carrier safety regulations. The Iowa department of transportation adopts the Federal Motor Carrier Safety Regulations, 49 CFR Parts 385 and 390-399 (October 1, ~~2019~~ 2020).

ITEM 2. Amend paragraph **520.1(1)“b”** as follows:

b. Hazardous materials regulations. The Iowa department of transportation adopts the Federal Hazardous Materials Regulations, 49 CFR Parts 107, 171-173, 177, 178, and 180 (October 1, ~~2019~~ 2020).

ITEM 3. Amend paragraph **520.1(2)“c”** as follows:

c. Operators of vehicles for hire, designed to transport 7 or more persons, but fewer than 16, including the driver, must comply with 49 CFR Part 395 of the Federal Motor Carrier Safety Regulations. In addition, operators of vehicles for hire designed to transport 7 or more persons, but fewer than 16, including the driver, are not exempt from logbook requirements afforded the ~~100-air-mile~~ 150-air-mile radius driver under 49 CFR 395.1(e). However, the provisions of 49 CFR Part 395 shall not apply to vehicles offered to the public for hire that are used principally in intracity operation and are regulated by local authorities.

ITEM 4. Amend rule 761—529.1(327B) as follows:

761—529.1(327B) Motor carrier regulations. The Iowa department of transportation adopts the Code of Federal Regulations, 49 CFR Parts 365-368 and 370-379, dated October 1, ~~2019~~ 2020, for regulating interstate for-hire carriers.

Copies of this publication are available from the state law library or at www.fmcsa.dot.gov.

ITEM 5. Amend paragraph **607.10(1)“d”** as follows:

d. The following portions of 49 CFR Part 383 (October 1, ~~2019~~ 2020):

- (1) Section 383.51, Disqualification of drivers.*
- (2) Subpart E—Testing and Licensing Procedures.*
- (3) Subpart G—Required Knowledge and Skills.*
- (4) Subpart H—Tests.*

ITEM 6. Amend subrule 607.28(7) as follows:

607.28(7) Locations. The skills test for a commercial driver's license shall be given only at specified locations where adequate testing facilities are available. An applicant may contact any driver's license service center for the location of the nearest skills testing center. ~~A skills test by appointment shall be offered only at specified regional test sites.~~

ITEM 7. Amend paragraph **607.37(1)“a”** as follows:

a. The licensee shall make a written self-certification of type of driving as required by rule 761—607.50(321) and, if required, provide a current medical examiner's certificate ~~if required~~ unless the person's medical examiner's certificate is provided to the department electronically by the Federal Motor Carrier Safety Administration.

ITEM 8. Amend rule 761—607.50(321) as follows:

761—607.50(321) Self-certification of type of driving and submission of medical examiner's certificate.

607.50(1) No change.

607.50(2) Submission of medical examiner's certificate by persons certifying to non-excepted interstate driving. Every person who self-certifies to non-excepted interstate driving must give the department a copy of the person's current medical examiner's certificate, unless the person's medical examiner's certificate is provided to the department electronically by the Federal Motor Carrier Safety Administration. ~~A person who fails to provide a required medical examiner's certificate~~ The department shall not be allowed to proceed with an initial issuance issue, transfer, renewal renew, or upgrade of a license until the person gives the department receives a medical examiner's certificate that complies with the requirements of this subrule, or unless the person changes the person's self-certification of type of driving to a type other than non-excepted interstate driving. For persons submitting When the department receives a current medical examiner's certificate, the department shall post a medical certification status of “certified” on the person's CDLIS driver's record. A person who self-certifies to a type of driving other than non-excepted interstate shall have no medical certification status on the CDLIS driver's record.

607.50(3) Maintaining certified status. To maintain a medical certification status of “certified,” a person who self-certifies to non-excepted interstate driving must give the department a copy of each subsequently issued medical examiner's certificate valid for the person unless the person's medical examiner's certificate is provided to the department electronically by the Federal Motor Carrier Safety Administration. ~~The copy must be given to the department at least ten days before the previous medical examiner's certificate expires.~~

607.50(4) CDL downgrade. If the medical examiner's certificate or medical variance for a person self-certifying to non-excepted interstate driving expires or if the Federal Motor Carrier Safety Administration notifies the department that the person's medical variance was removed or rescinded, the department shall post a medical certification status of “not certified” to the person's CDLIS driver's record and shall initiate a downgrade of the person's commercial driver's license or commercial learner's permit. The medical examiner's certificate of a person who fails to maintain a medical certification status of “certified” as required by subrule 607.50(3) shall be deemed to be expired on the date of expiration of the last medical examiner's certificate filed for the person as shown by the person's CDLIS driver's record. The downgrade will be initiated and completed as follows:

a. The department shall give the person written notice that the person's medical certification status is “not certified” and that the commercial motor vehicle privileges will be removed from the person's commercial driver's license or commercial learner's permit 60 days after the date the medical examiner's certificate or medical variance expired or the medical variance was removed or rescinded unless the person submits to the department receives a current medical certificate or medical variance or the person self-certifies to a type of driving other than non-excepted interstate.

b. If the ~~person submits~~ department receives a current medical examiner's certificate or medical variance before the end of the 60-day period, the department shall post a medical certification status

of “certified” on the person’s CDLIS driver’s record and shall terminate the downgrade of the person’s commercial driver’s license or commercial learner’s permit.

c. No change.

d. ~~If the person fails to take the action requirements in either paragraph 607.50(4) “b” or “c” are not met~~ before the end of the 60-day period, the department shall remove the commercial motor vehicle privileges from the person’s commercial driver’s license or commercial learner’s permit and shall leave the person’s medical certification status as “not certified” on the person’s CDLIS driver’s record.

607.50(5) *Establishment or reestablishment of “certified” status.* A person who has no medical certification status or whose medical certification status has been posted as “not certified” on the person’s CDLIS driver’s record may ~~establish or reestablish~~ have the person’s status established or reestablished as “certified” by submitting if the department receives a current medical examiner’s certificate or medical variance to the department. A person who has failed to self-certify to a type of driving or has self-certified to a type of driving other than non-excepted interstate must also make a self-certification of type of driving to non-excepted interstate driving. The department shall then post a medical certification status of “certified” on the person’s CDLIS driver’s record.

607.50(6) *Reestablishment of the CDL privilege.* A person whose commercial motor vehicle privileges have been removed from the person’s commercial driver’s license or commercial learner’s permit under the provisions of paragraph 607.50(4) “d” may ~~reestablish~~ have the person’s commercial motor vehicle privileges by reestablished if either of the following methods occurs:

a. ~~Submitting a~~ The department receives the person’s current medical examiner’s certificate or medical variance to the department. A person who has failed to self-certify to a type of driving must also make an initial self-certification of type of driving to non-excepted interstate driving. The department shall then post a medical certification status of “certified” on the person’s CDLIS driver’s record and reestablish the commercial motor vehicle privileges, provided that the person otherwise remains eligible for a commercial driver’s license or commercial learner’s permit.

b. ~~Self-certifying~~ The person self-certifies to a type of driving other than non-excepted interstate. The department shall then reestablish the commercial motor vehicle privileges, provided that the person otherwise remains eligible for a commercial driver’s license or commercial learner’s permit; the person will have no medical certification status on the driver’s CDLIS driver’s record.

607.50(7) *Change of type of driving.* A person may change the person’s self-certification of type of driving at any time. As required by subrule 607.50(2), the department must receive a copy of the person’s current medical examiner’s certificate prepared by a medical examiner for a person certifying to non-excepted interstate driving ~~must give the department a copy of the person’s current medical examiner’s certificate prepared by a medical examiner.~~

607.50(8) No change.

607.50(9) *Medical examiner’s certificate conflict.* As required by 49 CFR Sections 383.71 and 383.73, in the event of a conflict between the medical certification information provided electronically by the Federal Motor Carrier Safety Administration and a paper copy of the medical examiner’s certificate, the medical certification information provided electronically by the Federal Motor Carrier Safety Administration shall supersede.

This rule is intended to implement Iowa Code sections 321.182, 321.188 and 321.207.